

Appl. No. 09/342,719
Docket No. 7590Q
Amdt. dated January 26, 2007
Reply to Office Action mailed on October 31, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 28-32, 34-37, 40-44, 47, 48, and 58-60 are pending in the present application. Claims 28 and 58 are amended herein to provide additional clarity to the structural relationship between the elements recited therein. In particular, claims 28 and 58 are amended to provide additional clarity to the diapers recited therein as "comprising a responsive system including a sensor and an actuator." No additional claims fee is believed to be due.

Rejection Under 35 U.S.C. § 103(a) Over Hashimoto et al.

Claims 28-32 and 58 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,681,297 issued to Hashimoto et al. (hereinafter "Hashimoto"). In order to establish a prima facie case of obviousness, three basic requirements must be met. (See MPEP § 2143). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* It is respectfully submitted that the Office action does not establish a prima facie case of obviousness, because Hashimoto does not teach or suggest all the claim limitations recited in independent claims 28 and 58.

As mentioned above, independent claims 28 and 58 are amended herein to provide additional clarity by reciting that the diapers comprise "a responsive system including a sensor and an actuator." However, Hashimoto does not teach or suggest a diaper comprising a responsive system, as recited in claims 28 and 58. (emphasis added) Instead, Hashimoto discloses a device for disposing excrement, referred to therein as a "diaper cup," which is connected to external facilities (e.g. vacuum motor housing, water tank, pump, valves) through a plurality of hoses (See Col. 2, ll. 1-12; Col. 4, ll. 17-42; and Fig. 2). The diaper cup is also equipped with snapping hooks that permit exchangeable diapers to be put on and taken off the diaper cup. (See Col. 3, ll. 42-53). As such, the diapers of Hashimoto do not comprise a responsive system as recited in claims 28 and 58.

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Accordingly, Hashimoto does not teach or suggest all the claim limitations recited in claims 28 and 58.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claims 28 and 58 are patentable under 35 U.S.C. § 103(a) over Hashimoto. Claims 29-32 depend from and include all the limitations of claim 28. As such, for at least the same reasons discussed above with reference to claim 28, claims 29-32 are also patentable under 35 U.S.C. § 103(a) over Hashimoto.

Therefore, it is believed that claims 28-32 and 58 are in form for allowance and such indication is respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Hashimoto et al. in view of Jones et al.

Claims 34-37, 40-44, 47, 48, 59, and 60 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto in view of U.S. Patent No. 5,482,714 issued to Jones et al. (hereinafter "Jones").

It is respectfully submitted that Jones does not correct the deficiencies of Hashimoto discussed above. As such, independent claims 28 and 58 are patentable under 35 U.S.C. § 103(a) over Hashimoto in view of Jones. Claims 34-37, 40-44, 47, and 48 depend from and include all the limitations of claim 28, and claims 59 and 60 depend from and include all the limitations of claim 58. Thus, for at least the same reasons discussed above with reference to claims 28 and 58, claims 34-37, 40-44, 47, 48, 59, and 60 are also patentable under 35 U.S.C. § 103(a) over Hashimoto in view of Jones.

Therefore, it is believed that claims 34-37, 40-44, 47, 48, 59, and 60 are in form for allowance and such indication is respectfully requested.


Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

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